

California Certified Access Specialist Program

Proposed Regulations

Draft Version 5

The Division of the State Architect (DSA) is in the process of developing a final draft of proposed regulations for the California Certified Access Specialist (CASp) Program, and invites you to participate in ongoing public workshops to assist in the development of rules which would govern the eligibility, oversight, accountability, and management of the program. There are two overall objectives for these informal meetings:

- (1) to present those persons with an interest in this new state certification program with an overview of its highlights and key features; and
- (2) to engage those individuals who might be subject to program regulations in discussions on issues of concern.

As a result of comments from two public workshops, the DSA staff involved with the CASp Program has modified the original draft to address suggestions and concerns by members of the public. These changes are shown below as underlined text, thus modifying the original discussion document. We invite you to continue the discussion, including the amendments addressing comments made by stakeholders, in an effort to define the final wording prior to any formal rulemaking. Please feel free to submit your comments. The CASp Program will continue to post official notices of its public meetings on the DSA website.

DSA will not initiate formal rulemaking on CASp Program regulations until it provides sufficient opportunity for public participation at regional workshops regarding the CASp Program.

Please email all comments and questions to: CASprogram@dgs.ca.gov

Article 1 – General Provisions

100. Purpose. The purpose of these regulations is to establish, administer and enforce the California Certified Access Specialist (CASp) Program pursuant to Government Code Sections 4459.5 through 4459.8, which were enacted as part of Chapter 872, Statutes of 2003, to promote consistency in plan review and construction in the discipline of universal design and access compliance, and to maximize the enforcement of accessibility laws and regulations.

101. State Certification. These regulations shall not be construed to contradict or expand the meaning of state certification granted by the CASp Program. State certification shall only be granted to an individual with demonstrated competence in disability access rights related to the built environment

(a) Limited to Individuals. Certification shall only be granted to individuals. Holders of certification shall not delegate or share certification with any business entity or individual.

(b) Disallowed Certification. No action taken by a Certified Access Specialist shall be deemed to imply that any building, facility or proposed construction is in full compliance with all applicable accessibility requirements.

102. Certifying Body. Certification shall only be granted by the California Certified Access Specialist (CASp) Program, which exists within, and is administered by the Division of the State Architect (DSA). DSA shall provide for adequate, continual funding and administrative staff to allow the CASp Program to conduct effective certification activities.

103. Directory of Certified Access Specialists. The CASp Program shall make available, for public inspection, a directory of Certified Access Specialists, on or before the October 31st of each year. Such annual publications shall include the following disclaimer:

Notwithstanding any other provision of law, a state agency or employee of a state agency may not be held liable for any injury or damages resulting from any service provided by a Certified Access Specialist whose name appears in this directory.

104. Certification Term. The certification of an Access Specialist shall be effective for three years from the date issued, except as otherwise set forth in these regulations.

Article 2 – Definitions

200. Definitions. Each term defined in this article has special meaning to the CASp Program, as it appears in these regulations and in program publications:

Access Architect is any individual who currently holds the title of Certified Access Architect granted by the California Certified Access Specialist (CASp) Program.

Access Investigator is any individual who currently holds the title of Certified Access Investigator granted by the California Certified Access Specialist (CASp) Program.

Access Specialist is any individual currently certified in any classification of the California Certified Access Specialist (CASp) Program.

Access Requirement is a prescriptive statement or performance obligation in the Accessibility Knowledge Base.

Architect as used in these regulations, is an individual possessing a current license to practice architecture or landscape architecture in California.

Accessibility Knowledge Base is a specific list of government statutes, regulations, codes and standards containing access requirements related to the built environment.

Certification Examination is made up of distinct exam components. Each component tests the domain of knowledge, skills and abilities for a particular classification. In addition, the Core Knowledge exam component assesses the knowledge, skills and abilities of accessibility requirements common to all Access Specialists regardless of classification.

Classification represents multiple types of certification as an Access Specialist in recognition of specialty areas of practice and expertise. Each classification is distinguished by significant differences in education and experience qualifications and/or distinct knowledge, skills and abilities required in professional practice within that classification.

Consulting Specialist is an Access Specialist acting independently as a party to a professional services contractual agreement with a client.

Investigative finding is based on factual evidence indicating the degree which an accessible element or assembly complies with a prescriptive requirement and/or fulfills a performance obligation.

Prescriptive Deficiency is a type of investigative finding indicating noncompliance with at least one prescriptive access requirement by an accessible element of construction

Public Use Facility is a broadly inclusive term representing any part of the built environment that must be assessable. Public Use Facilities include, but are not limited to, any facility defined by the California Building Code as a *public accommodation, commercial facility, publicly funded housing*, site development, curbs or sidewalks intended for public use, or any facility utilizing government funds for facility operation or to provide a public service.

Specialist, when used as a single word, has no special meaning in the CAsP Program.

Standard of Practice prescribes the professional conduct expected of a designated group of Access Specialists under specific conditions, and may only stipulate procedural aspects of professional practice.

Universal Design. The following commonly-accepted definition originated at the Center for Universal Design at North Carolina State University:

The design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

Article 3 – Certification Provisions

301. Classifications of Certification. A successful candidate of the CASp Program shall be granted certification in one of the following classifications:

(a) Certified Access Investigator. An Access Investigator is an individual who is deemed competent to conduct an investigation of an existing public use facility, or proposed construction of same, to determine the degree of compliance with accessibility requirements. Certification in this classification shall be granted to any candidate who satisfies the following:

(1) Experience Qualification. Each applicant shall understand construction practices and regulation, evidenced by at least two years full-time experience:

- (A) Employed by a code enforcement agency, [or](#)
- (B) Employed by a consulting firm while also having any certification from a nationally recognized organization involving design, construction or inspection, or
- (C) Employed by a Design Professional, respectively licensed or certified as such;
- (D) Employed by a licensed general contractor; or
- (E) History of involvement in a specialized area of disability access rights and a letter of recognition for accomplishment in the specialized area by a statewide organization representing people with disabilities.

(2) Education Qualification. Each applicant shall understand construction concepts and basic design principles, evidenced by:

- (A) Completion of thirty semester units (one year) of college coursework in construction technology or a related field of study; or
- (B) High school diploma or GED, and two additional years of specified experience qualification as identified in (1) above.

(3) Examination Requirement. Each candidate must attain a passing score on the Core Knowledge exam component of the Certification Examination.

(b) Certified Access Architect. An Access Architect is an individual deemed competent in the design of accessible public use facilities.

(1) License Qualification. Each applicant must present evidence of current licensure as an architect or landscape architect in California.

(2) Examination Requirement. Each candidate must attain passing scores on both the Core Knowledge exam component and the exam component for Access Architects.

302. Accessibility Knowledge Base. The Certification Examination assesses a candidate's competence of the access requirements in the CASp Program's Accessibility Knowledge Base, which includes, but is not limited to, the following laws, codes and standards:

1. *Americans with Disabilities Act of 1990* (42 USC Chapter 126), Title II and Title III and promulgating regulations as adopted by the United States Department of Justice or the U.S. Access Board.
2. Provisions for accessibility throughout all parts of the current edition of the *California Building Standards Code.*
3. Provisions for accessibility in California statutory law found in the *Government Code, Health and Safety Code, and the Civil Code.*
4. *Fair Housing Amendments Act of 1988* (42 USC Sections 3601 – 3620) and promulgated technical guidance in the *Fair Housing Act Design Manual* .
5. *Architectural Barriers Act of 1968*, as amended (42 USC Section 4151 et seq) and promulgating regulations.
6. Americans National Standards Institute (A.N.S.I. A117.1 - All Editions)
7. Uniform Federal Access Standards (UFAS)
8. Seven Principles of Universal Design (published by the Center for Universal Design at North Carolina State University)

(a) Publication of Updates. The CASp Program shall conduct an annual review of the contents of the Accessibility Knowledge Base, and shall publish its full contents, in conjunction with the publication provision of Section 103.

303. Educational Resources. The CASp Program may develop, or commission the development of, optional educational resources to prepare candidates for the Certification Examination.

(a) Prohibited Endorsement. The CASp Program shall not endorse or accredit any educational program, including its own, that is offered as preparation for the Certification Examination.

(b) Option Only. The CASp Program shall not state or imply that any educational program, including its own, is the only available route to certification, or is required for initial certification as an Access Specialist.

304. Application Process. An individual becomes a candidate for certification as an Access Specialist upon successful application to the CASp Program.

(a) Candidate Application. An individual shall submit a complete Candidate Application for each separate certification classification, which includes, but is not limited to: (1) payment of a nonrefundable application fee; and (2) evidence of the specified qualifications for the classification in which certification is sought.

(b) Status Report. The CASp Program shall inform each individual, in writing, of the status of his/her application within thirty days of receipt of the complete application.

305. Certification of Subject Matter Experts. Any individual retained by the CASp Program as a subject matter expert in a certification classification may be initially certified in that classification, subject to the following conditions:

(a) Application Process. A subject matter expert must successfully submit a Candidate Application, including payment of the application fee.

(c) Examination Waiver. The Program Administrator shall waive an examination requirement, upon verification that the subject matter expert contributed to the development of the particular exam component that would otherwise be required.

(d) Certification Term. The initial term of certification of any subject matter expert receiving a waiver per this section shall be reduced to two years in length.

Article 4 – Program Administration

400. Autonomy. These regulations, as promulgated and maintained over time, shall organize and empower the CASp Program in ways that protect it against any undue influence that could compromise the integrity of the certification process, the body of knowledge or standards of practice of the CASp Program, or the professional practice of Certified Access Specialists.

401. Governance. The following entities have specific responsibilities and authority in governing the Certified Access Specialist Program.

(a) State Architect. The State Architect shall represent the CASp Program in official proceedings of the state, and shall act in the best interests of the CASp Program. The State Architect decides eligibility of certification qualifications as may be deferred back to him by the Program Administrator, presides over disciplinary proceedings, and issues all suspensions, revocations, and reinstatement of certification. Unless otherwise stipulated in these regulations, the State Architect shall make the final decision on all appeals in the CASp Program. Staffing and other necessary resources associated with the CASp Program responsibilities shall be maintained to meet the demand, quality control, and effective communication necessary with stakeholders.

(b) Program Administrator. Decides the acceptance of qualifications presented in candidate applications, or else refers such determination to the State Architect. Any appeal of a decision by the Program Administrator shall be made to the State Architect.

(c) Committees and Panels. Each committee and panel established under this article shall exist solely to advise the State Architect on designated issues or for specific purposes.

402. Oversight Panel. At the inception of the CASp Program, this panel shall monitor program effectiveness in several subject areas: (1) improvement in administrative enforcement of access compliance laws and regulations, (2) success in achieving better accuracy and consistency in accessibility, (3) the reduction of discrimination by the use of universal design, and (4) the adequacy of staffing and resources necessary to maintain the program. Reports of its oversight activity shall be submitted semiannually to the State Architect. The Oversight Panel shall base their report on published factual data, random audits of at least six (6) reports generated by each certification classification and, shall advise the State Architect of recommended changes to best ensure that the CASp Program satisfies the intent of authorizing legislation.

(a) Composition. The State Architect shall appoint no more than nine individuals to represent the following stakeholder interests including a minimum of at least six individuals currently certified by the CASp Program:

- (1) The Attorney General.
- (2) The Department of Rehabilitation.
- (3) The League of California Cities.
- (4) California Architects Board.
- (5) Local building officials.
- (6) Business owners and operators.
- (7) Facility managers with physical access responsibilities
- (8) Persons with disabilities.
- (9) Certified Access Specialists

(b) Term Limits. There shall be no term limit for individual representatives on the panel. The Oversight Panel shall remain intact for a minimum of five years, at the end of which the State Architect shall commission a sunset review of panel necessity. The State Architect shall provide six months advance notice before dismissing the panel.

403. Program Development Committees. Committee members shall be Access Specialists, unless specifically excepted, and shall serve three-year terms. One-third of each committee's membership shall be elected each year from the body of Certified Access Specialists. No Access Specialist shall be a member of more than one standing committee at a time. The Program Administrator shall serve as an ex-officio member of each program development committee, who is authorized to cast a tie-breaking vote at his/her sole discretion.

(a) Examination Committee. This committee is responsible for maintaining the viability of the Certification Examination, and shall consist of two representatives from each certification classification. The committee shall hear all challenges to any part of the examination, and any challenge to the process of test development. This committee also ensures that the documents comprising the California Access Standards are up to date. Any appeal of a committee decision shall be made to the State Architect.

(b) Professional Practice Committee. This committee is responsible for developing and monitoring not only the Standards of Practice of the CASp Program, but also to communicate with existing related certification programs. It shall consist of three representatives from each certification classification.

(c) Subcommittees. A program development committee may establish an ad hoc subcommittee to represent the expertise of a specific area of professional practice, for the purpose of advising the parent committee on matters related to its area of expertise. Appointment of subcommittee members shall be made by the parent committee.

(d) Initial Committee Appointments. At the inception of the CASp Program, the State Architect shall appoint the membership of each program development committee. Each member will be appointed for a term of one, two or three years.

404. Certification Examination. The CASp Program shall adhere to standardized and secure procedures for ongoing test development and test administrations.

(a) Periodic Validation. The Examination Committee shall commission a formal job analysis at least once every three years, to ensure the validity and defensibility of the Certification Examination.

(b) Test Administrations. The Examination Committee may retain a consultant to conduct scheduled administrations of the Certification Examination.

(1) Responsibilities. For each scheduled test administration, consultant responsibilities include, but are not limited to, arranging for a test site, registering examinees, proctoring test administrations, scoring completed exam components, and continuing test development activities.

(2) Contract Term. The test administration consultant shall be retained to provide scheduled test administrations for a period of time no less than one year, and not to exceed three years.

405. Program Consultants. Each independent consultant to the CASp Program shall be retained under a contract administered by the Division of the State Architect. The CASp Program may select consultants to fulfill the following program needs:

(a) Certification Examination. The Examination Committee may select consultants to satisfy the provisions of Section 404.

(b) Educational Program. The Program Administrator may select instructors for educational resource offerings, in accordance with Section 303.

(c) Quality Assurance. The Program Administrator may retain the services of Access Specialists in order to administer the program's Quality Assurance Policy, in accordance with Section 702.

(d) Complaint Investigators. The Program Administrator shall select an independent investigator to verify a complaint of the conduct of an Access Specialist, in accordance with Section 802(b).

406. Program Fees for Service. The Division of the State Architect shall establish fees for program services.

(a) No-cost public services. No fee shall be charged for public inquiries on the process of attaining certification as an Access Specialist, nor for public inquiries of the status of an individual holder of certification.

(b) Payment of Service Fees. The fee for a program service shall be collected before processing the service request.

(c) Changes to Service Fees. No more than once each year, the Division of the State Architect shall review the fee amount for each program service, and may revise individual service fees to reflect the reasonable costs associated with the service rendered.

(d) Fees based on Hourly Rates. The hourly compensation of any part of a service fee shall be derived from the *Current Cost Book of Services*, as published and maintained by the Department of General Services of the State of California.

Article 5 – Ethical Standards

500. Purpose. The following standards provide fundamental criteria to use in ethical evaluations of Certified Access Specialists. Conduct which demonstrates, over time, a pattern of wilful breach of an ethical standard may be grounds for disciplinary action or for denial of recertification.

501. Personal Conduct. Certified Access Specialists shall exhibit strength of character consistent with the following standards:

(a) Integrity. An Access Specialist shall not engage in conduct involving fraud, extortion, coercion, deceit or misrepresentation in any fashion.

(d) Competence. An Access Specialist shall continually strive to improve his/her knowledge, skills and abilities in order to maintain professional competence.

(e) Professionalism. An Access Specialist shall render professional services in a timely manner which demonstrate reasonable care and professional rigor. The quality of a product of service shall not be compromised by an act of recklessness or negligence.

502. Professional Relationships. In offering or providing professional services to clients, employers or to the community, an Access Specialist shall honor the trust inherent in these relationships, and be forthright in his/her self-portrayal.

(a) Representation of Qualifications. An Access Specialist shall accurately describe his/her professional experience and abilities, and shall not offer professional services in areas of practice for which he/she is not experienced or proficient.

(b) Conflicts of Interest. An Access Specialist shall avoid conflicts of interest, and is also obliged to avoid the appearance of a conflict of interest. An Access Specialist shall promptly and fully disclose any unavoidable conflict of interest should one arise in the course of a professional relationship.

(c) Confidentiality. Notwithstanding any other provision of law, an Access Specialist shall maintain inviolate the inherent trust and security of his/her professional relationships. There is no limit of time to this responsibility.

Article 6 – Professional Standards

600. Function. The following performance standards regulate the professional conduct of Certified Access Specialists, to establish acceptable levels of quality, clarity and consistency of services rendered. Conduct which demonstrates, over time, a consistent pattern of wilful breach of a professional standard may be grounds for disciplinary action or for denial of recertification.

601. Terminology Standard. An Access Specialist shall be diligent in the proper use of professional terminology, as specified in this section, in written correspondence or in any product of service rendered.

(a) Defined Accessibility Terms: any definition related to accessibility appearing in the California Building Code.

(b) Standard Accessibility Terms: use of an accessibility term or concept that is not defined in the California Building Code, but which appears in any publication of the California Access Standards.

(c) Program-Specific Terms: the terminology of the CASp Program defined in Article 2 of these regulations.

602. Investigative Standard. Any investigative finding that identifies a deficient or noncompliant accessible element of construction shall provide a clear reference to the specific accessibility requirement in the California Access Standards which is found to be unfulfilled. Each report provided shall include not only code-compliance, but also a specific “Risk Assessment” of responsibilities for which an owner could be held accountable under ADA unless the owner waives this portion in writing.

603. Judgement Standard. An Access Specialist shall preserve, without exception, all substantive evidence of professional judgment in any service rendered. A burden of proof is imposed on the Access Specialist in any challenge to a technical finding or determination, who shall provide testimony that sufficiently describes the reasoning and method of inquiry used.

604. Standards of Practice. The professional conduct of an Access Specialist and preparation of products of service shall be in accordance with applicable CASp Standards of Practice.

(c) Scope of Application. A CASp Standard of Practice shall be instrumental in nature, and may only stipulate procedural aspects of professional practice. The CASp Program shall implement no standard of practice that would be considered a Building Standard, as defined in Health and Safety Code Section 18909.

605. Consulting Standards. The conduct of an Access Specialist who renders professional services as an independent consultant shall be in accordance with the following professional standards:

(a) Contractual Agreement. Prior to rendering professional services with each individual client, a Consulting Specialist shall execute a written contractual agreement or other identifying document associated with consulting services that declares the scope and services consistent with the requirements of Section 602 and signed by the client. The contractual agreement or identifying document shall clearly indicate the certification number and certification classification of the Consulting Specialist.

(b) Retention of Client Records. A Consulting Specialist shall preserve the records of the services rendered as a consultant, in a secure location which protects the integrity of each type of evidence.

(1) Term. Evidence shall be properly stored for a period of no less than six years from the end of the client contract.

(2) Evidence. Evidence which must be preserved includes all related business records, products of service, and any substantive discourse in printed, photographic, recorded or electronic form, which the Consulting Specialist possessed at any time during the term of the client contract.

(3) Confidentiality. The consulting specialist shall store evidence in a manner which maintains its confidentiality.

(c) Examination of Client Records. A Consulting Specialist shall make available to an agent of the CASp Program, upon presentation of proper identification and authorization, the client records requested.

Article 7 – Administration Of Access Specialists

700. Function. This article provides for effective administration of the body of Access Specialists. An Access Specialist who demonstrates, over time, a pattern of disregard of any administrative duty herein is at risk of disciplinary action by the CASp Program.

701. Administrative Procedures. The Division of the State Architect may stipulate administration procedures necessary for effective and efficient operation of the CASp Program.

702. Quality Assurance Policy. The Certified Access Specialist Program shall serve the public interest, upon request, by providing services to measure or otherwise evaluate the quality of professional services rendered by Access Specialists. The CASp Program may randomly audit the professional performance of sampling of current Access Specialists, to the extent that each type of review may be conducted in a cost-effective manner.

703. Recertification. Renewal of certification for an additional term may be granted to any Access Specialist whose current certification is in good standing and not yet expired. Recertification shall be granted to such a qualified individual who demonstrates continuing professional competence of the knowledge, skills and abilities of Access Specialists in the classification in which recertification is sought.

(a) Professional Competence. Evaluation of professional competence shall assess three areas of professional activity: (1) comprehensive understanding of the body of knowledge for the certification classification; (2) competence of the instrumental standards for applying such knowledge in professional practice; and (3) evidence of a continual effort to remain technically competent.

(b) Program Service. At the inception of the CASp Program, Certified Access Specialists acknowledge their responsibility to contribute to continuing program development.

(c) Recertification Criteria. No later than twelve months after these regulations become effective, the Examination Committee shall provide the State Architect with recommendations on the issues and criteria for recertification of Access Specialists. No later than eighteen months after these regulations become effective, the State Architect shall finalize the recertification process.

Article 8 – Disciplinary Procedures

800. Function. The Program Administrator shall investigate the conduct of an Access Specialist upon verification of a complaint received, which may result in disciplinary action and possible loss of certification, as provided in this article.

801. Grounds for Disciplinary Action. At least one of the following findings is required to initiate a disciplinary proceeding:

(a) Fraud in Obtaining Certification. Reasonable suspicion that an Access Specialist gained certification by fraud or misrepresentation of a material fact, per Business and Professions Code section 498.

(b) Subversion of Certification Examination. Reasonable suspicion of an act to subvert any part of the Certification Examination, per Business and Professions Code section 123.

(c) Conviction of Disqualifying Crime. Conviction of a crime substantially related to the professional work of an Access Specialist, per Business and Professions Code section 490.

(d) Violation of Ethical Standards. Reasonable suspicion that the conduct of an Access Specialist violated the Ethical Standards of Article 5.

(e) Violation of Professional Standards. Reasonable suspicion that the conduct of an Access Specialist violated the Professional Standards of Article 6.

802. Verification of Complaints. The factual basis of each complaint shall be verified prior to initiating a disciplinary proceeding.

(a) Notification of Parties Involved. The Program Administrator shall notify the complainant and Access Specialist at each phase of processing the complaint, per Business and Professions Code section 129(b).

(b) Independent Investigator. The Program Administrator shall appoint an independent investigator to verify the nature of the complaint and its plausibility for disciplinary action.

803. Disciplinary Proceedings. Proceedings which may result in loss of certification as an Access Specialist shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code (commencing with Section 11500), and the State Architect shall have all the powers granted therein.

804. Disciplinary Decision. The decision on a disciplinary proceeding may result in suspension by the holder of the certification of all operations as an Access Specialist during a period of time stipulated in the decision. Any appeal of a disciplinary decision shall be made to the State Architect.

805. Rehabilitation Criteria. Upon loss of certification, the State Architect shall notify the former holder of certification of specific criteria for rehabilitation which must be satisfied for reinstatement of certification.

806. Recovery of Disciplinary Proceeding Costs. As part of a disciplinary decision resulting in loss of certification, the State Architect may request the decision include an order for the former holder of certification to pay for reasonable costs of the investigation and enforcement of the disciplinary proceeding.

(a) A good faith estimate of costs by the CASp Program shall be prima facie evidence of reasonable costs of investigation and enforcement.

(b) Where an order for recovery of costs is made and timely payment is not made, the CASp Program may enforce the order for payment in any appropriate court.

(c) In any court action for recovery of costs, the disciplinary decision shall be conclusive proof of the validity of the order for recovery of costs.

(d) The CASp Program shall not reinstate the certification of an individual who has failed to pay all of the costs ordered under this section.

(e) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the CASp Program.

807. Client Notification of Loss of Certification. In orders which provide for loss of certification as an Access Specialist, the former holder of certification shall notify all present clients of the suspension of certification in a manner prescribed by the State Architect.

808. Reinstatement of Certification. An individual whose certification as an Access Specialist has been suspended may petition the State Architect for reinstatement after the period of time prescribed in the rehabilitation criteria. The petitioner shall be afforded an opportunity to present both oral or written argument to the State Architect. The State Architect shall take into account all evidence of rehabilitation furnished by the petitioner in reaching a decision on reinstatement.